

SEVENTY-SEVENTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, July 18, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present.
Prayer by the Chaplain.

President in the chair.

Journal of yesterday adopted.

In the printed journal of yesterday, in the consideration of Senate Bill No. 217, entitled, "The stock bill," it was said, "Senator Thompson's amendment was adopted." It should have been "Senator Smith's amendment, as amended, was adopted." And in the appeal from the decision of the chair, in ruling Senator Crain's resolution out of order, Senator Grace was in the chair, and not the President *pro tem*.

Senator Crain, from Committee on State Affairs, submitted the following report:

Hon. R. B. Hubbard, President of the Senate :

Your Committee on State Affairs, to whom was referred Senate Bill No. 343, entitled, "An Act to provide for the payment of pensions to such veterans as were entitled to but never received the same," have instructed me to report the bill back with the recommendation that it do not pass, your committee believing that said bill is contrary to the provisions of the Constitution.

CRAIN, *for Committee.*

Senator Blassingame introduced a bill to be entitled: "An Act for the relief of the Sherman, Tyler and Henderson Railroad Company."

Read by caption and referred to Committee on Internal Improvements.

Also a bill entitled: "An Act to authorize the Commissioner of the General Land Office to appoint a competent Surveyor."

Read by caption and referred to Committee on General Land Office.

The unfinished business and a special order, being Senate Bill No. 303, "An Act for the relief of railroads and other internal improvement companies," was taken up.

Senator Thompson moved to postpone the special orders, suspend the rules and take up Senate Bill No. 288, "An Act to provide for the guardianship of persons and estates of minors, persons of unsound mind and habitual drunkards."

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called.

ABSENT—Senators Francis, Ford—2.

Senator Grace was temporarily excused.

On motion of Senator Ball, the call was suspended.

Senators Crain, Piner and Ford were excused until 11 o'clock A. M., to attend on Free Conference Committee.

The motion of Senator Thompson was carried, and Senate Bill No. 288 taken up.

Senator Hobby in the chair.

Senator Thompson offered the following amendment:

"SEC. —. There being no law in force in conformity with the Constitution relative to guardianships, therefore an imperative public emer-

gency and necessity exists that this act be immediately passed and take effect from and after its passage, and it is so enacted."

Adopted.

On motion of Senator McCormick, fifty copies were ordered printed, and made the special order for Friday next at 10 o'clock A. M., and from day to day until disposed of.

A message was received from the House, announcing the passage by that body of Senate Bill No. 349: "An Act to organize Commissioners' Courts, and to define their jurisdiction and duties, and provide for vacancies therein."

Also, that the House has concurred in Senate amendments to House Bill No. 227: "An Act to create the Twenty-seventh Judicial District of the State of Texas."

Also, that the House has appointed as Committee of Free Conference on Senate Bill No. 295, "An Act to suppress lawlessness and crime in certain portions of the State," Representatives Kinnison, Rogers, and Campbell.

On motion of Senator Smith, the special orders were postponed, rules suspended, and Senate Bill No. 348, "An Act to prevent delay in civil cases," was taken up, read second time and ordered engrossed.

On motion of Senator McCormick, the special orders were still further postponed, the rules suspended, and Senate Bill No. 292, "An Act to provide for the issuance of patents for land in certain cases," was taken up, read second time and ordered engrossed.

The special order, Senate Bill No. 179, "An Act to encourage irrigation and navigation," was then taken up and read second time.

Senator Francs offered the following amendment:

Amend Section 3, line 11, by inserting after the letter, "a," the words, "permanent and continuous."

Adopted.

Senator Edwards offered the following amendment:

Strike out Section 7, after the word, "relate," in line 3.

Adopted.

Senator Guy offered the following amendment:

Amend Section 3, line 12, by striking out, "sixty, and inserting, "thirty."

Senator Brady offered the following as a substitute for Senator Guy's amendment:

Strike out all after the word, "therein," in Section 3, line 12, and add the words, "sufficiently fast for all practical purposes."

Accepted by Senator Guy, and the amendment, as amended, adopted.

Senator Guy offered the following amendment:

Amend Section 10, by inserting in line 3, between the words, "construct," and, "and," the following, "and may make a file in the District or County Surveyor's office before surveying, designating the land that such person, company or corporation intend irrigating, and such file shall hold good against any other file, either for irrigation or location of such land in the same manner as in the location of land, and the Surveyor shall be entitled to fees for the same, as in other file."

Adopted.

Senator McLeary offered the following amendments:

In Section 4, line 4, after the word, "paid," insert, "in advance."

Adopted.

Also, add to Section 4:

"And the Inspector shall not be permitted to receive a contingent remuneration, or one in any way dependent on the issuance or sale of the certificates granted under this act."

Adopted.

Senator Ball offered the following amendment to Senator Guy's second amendment:

After the word, "for," in last line of Senator Guy's second amendment insert, "each six hundred and forty certificate."

Adopted.

Senator McLeary offered the following amendment:

Add to Section 17: "And no certificate shall be issued for any canal or ditch until the same has been carried to a point at which the water can be used for irrigation or navigation."

Senator Francis offered the following amendments:

In Section 2, line 3, strike out, "eight," and insert, "five."

In line 4, strike out, "six," and insert, "three."

Lost by the following vote:

YEAS—Senators Blassingame, Brown, Douglass, Francis, Henry J. R., Henry F. M., Martin, Motley, Smith—9.

NAYS—Senators Ball, Brady, Burton, Edwards, Ford, Hobby, Ledbetter, McLeary, Moore, Ripetoe, Stephens, Thompson, Wortham—13.

NOT VOTING—Senators Guy, McCulloch, Storey—3.

Senator Stephens offered the following amendment:

Add to Section 10: "*Provided*, This act shall not be construed to prevent any person from pre-empting any of said reservations of land under the provisions of the pre-emption laws of this State."

Lost.

Senator Martin offered the following amendment:

Amend Section 2, line 1, by striking out, "12," and inserting, "16."

Senator Edwards moved the previous question on the pending amendment and engrossment of the bill.

Seconded, and the main question ordered.

Senator Martin's amendment was lost by the following vote:

YEAS—Senator Martin—1.

NAYS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McLeary, McCulloch, Moore, Motley, Ripetoe, Smith, Storey, Thompson, Wortham—22.

NOT VOTING—Senators Burton, Stephens—2.

The bill was then ordered engrossed, by the following vote:

YEAS—Senators Ball, Brady, Brown, Edwards, Ford, Guy, Hobby, Ledbetter, McLeary, Moore, Motley, Ripetoe, Storey, Thompson, Wortham—15.

NAYS—Senators Blassingame, Douglass, Francis, Henry J. R., Henry F. M., Martin, McCulloch, Smith—8.

NOT VOTING—Senators Burton, Stephens—2.

President in the chair.

On motion of Senator Smith, the rule was suspended, and House substitute for Senate Bill No. 84, "An Act to regulate the laying out, opening and classifying, and working of public roads in the State of Texas, and fixing penalties for a violation of certain sections therein named," was taken up.

On motion of Senator Smith, the call was suspended under which the bill went to the table on yesterday.

The bill passed by the following vote:

YEAS—Senators Blassingame, Brady, Brown, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Motley, Ripetoe, Smith, Thompson, Wortham—22.

NAYS—Senators Ball, Storey—2.

NOT VOTING—Senators Burton, Stephens—2.

Senator Ripetoe, by leave, introduced a bill to be entitled, "An Act for the protection of laborers on public buildings, streets, roads, railroads, canals, and other similar works against the failure of contractors and sub-contractors to pay their current wages."

Read by caption and referred to Committee on Internal Improvements.

Senator Edwards called up his motion, made on the 15th inst., to reconsider the vote passing Senate Bill No. 137, "An Act to fix and regulate the fees of all the State officers of Texas, and the several counties thereof."

On motion of Senator McLeary, the motion was laid on the table.

Senate Bill No. 275—"An Act to encourage the construction of railroads in Texas by donations of lands," being a special order, was taken up.

Senator McLeary moved a call of the Senate.

Call seconded.

Roll called.

ABSENT—Senators Brady, Ford.

Pending the call, the bill went to the table.

Senator Crain moved that Senate Bill No. 217, "An Act to encourage stock raising, and for the protection of stock raising," be withdrawn from the Committee on Engrossed Bills.

Adopted.

Senator Crain moved that the special order be postponed and the rule suspended, to take up Senate Bill No 217.

Carried and bill taken up.

On motion of Senator Crain, the reading of the bill was dispensed with by the following vote:

YEAS—Senators Ball, Blassingame, Brown, Crain, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—24.

NAYS—Senator Burton—1.

NOT VOTING—Senator Brady—1.

Senator McLeary offered the following amendment:

In Section 41, line 5, strike out all after the first word, and insert, "shall be fined not less than fifty nor more than five hundred."

Adopted.

Senator Piner offered the following amendment:

Further amend Section 47, by adding "Denton and Collin" to the list of counties to be exempted from the operation of this law.

Adopted.

The bill then passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Crain, Douglass,

Edwards, Francis, Ford, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—26.

NAYS—None.

NOT VOTING—Senator Burton—1.

Senator Smith in the chair.

The Senate being full, the call was suspended, and the consideration of Senate Bill No. 275—"An Act to encourage the construction of railroads in Texas by donations of lands," was resumed.

The question being the pending amendments of the committee, they were considered and voted on *seriatim*.

The first amendment of the committee, "to strike out amendment of Senator Storey," was lost.

The second amendment of the committee was, "to strike out Section 4," of the bill.

The President in the chair.

Senator Crain moved a call of the Senate.

Not sustained.

Senator Piner moved the previous question on all the amendments. Seconded.

Main question lost by the following vote:

YEAS—Senators Blassingame, Brady, Grace, Guy, Henry J. R., McCulloch, Moore, Motley, Piner, Ripetoe, Smith—11.

NAYS—Senators Ball, Brown, Burton, Crain, Edwards, Francis, Ford, Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Stephens, Storey, Thompson, Wortham—17.

Senator Smith moved the previous question on pending amendment. Seconded, and the main question ordered, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Burton, Crain, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—26.

NAYS—Senators Brown, Henry F. M.—2.

The second amendment of the committee, to strike out Section 4, was adopted by the following vote:

YEAS—Senators Blassingame, Brady, Burton, Francis, Grace, Guy, Henry J. R., Henry F. M., Martin, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Wortham—16.

NAYS—Senators Ball, Brown, Crain, Edwards, Ford, Hobby, Ledbetter, McLeary, McCormick, Stephens, Storey, Thompson—12.

The third amendment of the committee, to strike out Section 5 of the bill, was lost.

The fourth amendment of the committee, to make Section 6, Section 5, was adopted.

The President signed, after publicly reading its caption, Senate Bill No. 119, "An Act to regulate proceedings in the County Courts pertaining to estates of deceased persons."

Also, Senate Bill No. 103—"An Act to better define the powers and duties of Sheriffs and other officers."

Senator McLeary offered the following amendment:

"SEC. 4. Hereafter no certificate for public lands shall be issued to any company for the building of railroads situated in any county which the statements and estimates hereinafter provided for show to have re-

ceived its equitable proportion, or more, of the public domain; and for railroads in counties which have not received their equitable proportion, certificates may be issued to such railroads as may become entitled to receive them, until the limit prescribed in the said statements and estimates is reached, and not after.

"SEC. 5. The Commissioner of the General Land Office, the Comptroller of Public Accounts and the Attorney-General, shall constitute a Board of Equalization, whose duty it shall be to equalize the donations hereafter to be made, as is hereinafter provided.

"SEC. 6. It shall be the duty of the Board of Equalization immediately to examine the laws of the State, and the records of the several departments, and to prepare therefrom, correct tabulated statements, showing the area of each county in this State, and how much of the public domain has been actually granted to railroads therein by the State.

"SEC. 7. Said Board shall also, from the same sources, prepare an accurate estimate of the amount of the public domain which is still at the disposal of the State, for the encouragement of railroads, after setting aside that reserved for the benefit of public education, and other special purposes.

"SEC. 8. Said Board shall then proceed to prepare a tabulated statement, showing what amount of the public domain each county would be entitled to receive for the encouragement of railroads, in proportion of its area to the whole amount of the public domain already granted to railroads, and still at the disposal of the State, taken together; and said statements and estimate shall be used as is prescribed in Section 4 of this act."

Senator Piner moved the previous question on the amendment and the engrossment of the bill.

Seconded, and the main question ordered by the following vote:

YEAS—Senators Blassingame, Brady, Burton, Grace, Guy, Henry J. R., Hobby, Martin, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Wortham—15.

NAYS—Senators Brown, Crain, Edwards, Francis, Ford, Henry F. M., Ledbetter, McLeary, McCormick, Stephens, Storey, Thompson—12.

NOT VOTING—Senator Ball—1.

Senator McLeary's amendment was then lost by the following vote:

YEAS—Senators Brown, Crain, Ford, McLeary, McCormick, Stephens, Storey, Thompson—8.

NAYS—Senators Ball, Blassingame, Brady, Burton, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Wortham—20.

The bill was then ordered engrossed by the following vote:

YEAS—Senators Ball, Brady, Burton, Edwards, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Wortham—18.

NAYS—Senators Blassingame, Brown, Crain, Francis, Ford, Grace, McLeary, Stephens, Storey, Thompson—10.

Senator Stephens, Chairman of Committee on Engrossed Bills, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and

compared substitute for Senate Bill No. 144, "An Act to provide for the incorporation of associations that may be organized for the purpose of constructing railways, maintaining and operating the same; prescribing and defining the duties and limiting the powers of such corporations when so organized," and find the same correctly engrossed.

STEPHENS, *Chairman.*

Senator Crain, from the Free Conference Committee on the differences between the two Houses on Senate Bill No. 295, "An Act to suppress lawlessness and crime in certain parts of the State," submitted the following report :

Hon. R. B. Hubbard, President of the Senate :

Your Committee of Free Conference, appointed to confer with a like committee from the House and consider Senate Bill No. 295, entitled, "An Act to suppress lawlessness and crime in certain parts of the State, and to make an appropriation therefor," have had the said bill, with the proposed amendments thereto, under consideration, and respectfully report the bill back with the following amendments, and recommend that, as amended by the committee, the bill do pass :

Strike out the preamble and insert in lieu thereof the following :

"WHEREAS, in several counties in the Western part of the State the people are being depredated on, in person and property, by bands of criminal and lawless men, too strong to be suppressed by the civil authorities unaided, and by bandits and robbers from Mexico; therefore, for the purpose of maintaining law and order, and giving security to that section against foreign invasion and domestic disturbance, and for that purpose to aid the civil authorities."

Strike out Section 9.

Strike out all in Section 6 after the word, "may," in line 22, and add, "accept the services of such citizens as shall volunteer to aid them, but while so engaged, such citizens shall not receive pay from the State for their services."

In Section 6, after the word, "of," in line 18, insert the word, "committing."

In line 19, same section, after the word, "robbery," insert, "or other felonies."

In Section 8, line 1, after the word, "of," insert the words, "forty thousand," and strike out the words, "twenty-three thousand, eight hundred and fourteen."

CRAIN,	}	<i>Senate Committee.</i>
FORD,		
PINER,		
KINNISON,	}	<i>House Committee.</i>
CAMPBELL,		
ROGERS,		

Senator Edwards in the chair.

Senator Crain moved a suspension of the rules, and that the report be taken up.

Carried.

Report of the committee adopted.

Senator Storey offered the following resolution.

WHEREAS, Death has this day invaded the family circle of the Hon-

orable A. W. Terrell, a member of this body, and removed therefrom his little daughter, Betsy Terrell; therefore,

Be it resolved by the Senate, That we sympathize deeply with the bereaved father and his family, and as a token of respect, that the Senate do now adjourn until to-morrow morning at 9 o'clock; and that a copy of the resolution be presented to the family by the Secretary.

Adopted, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—28.

The vote was unanimous, all voting in the affirmative that were present.

The Senate then adjourned until to-morrow morning at 9 o'clock.

SEVENTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 19, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

Senator Brown, on motion of Senator Hobby, was excused until 11 o'clock A. M.

Senator McLeary, Chairman of the Committee on State Affairs, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on State Affairs, to whom was referred House Bill No. 239, "An Act to incorporate the city of Galveston, and grant a new charter," have had the same under consideration, and have instructed me to report the bill back with the accompanying amendments, and with the recommendation that the bill, amended as your committee propose, be passed.

McLEARY, *Chairman.*

In Title 2, Article 1, Section 3, line 12, insert after the parenthesis, the word, "Auditor."

In Title 3, Article 10, Section 20, line 16, insert after the word, "Mayor," the words, "and by the Auditor."

Article 11, Section 21, line 10, after the word, "Clerk," insert, "and Auditor."

Article 12, line 7, strike out, "City Clerk," and insert, "Auditor."

In Title 3, insert the following Article and Section:

"ARTICLE 13. Section 23. It shall be the duty of the Auditor to examine in detail, all bills, accounts and claims against the city, and if found correct, sign his name in approval; but if found incorrect, he shall return them to the appropriate committee or the City Council, with his objections thereto. It shall be his duty to examine the books of all the officers of the city, and if they should be found incorrect, to make a report of the same to the City Council; and he shall render such other services, from time to time, as the City Council may direct, and shall receive for his services such compensation as the City Council may determine, not to exceed eighteen hundred dollars per annum, and shall